



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2923

by Rep. Laura Fine

SYNOPSIS AS INTRODUCED:

New Act

Creates the Energy Drink Act. Defines "energy drink" as a carbonated beverage that exceeds a caffeine content of 71 milligrams per 12 ounce serving and contains any combination of taurine, guarana, and glucuronolactone. Provides that it is unlawful in this State for any person or retail entity to sell or offer to sell an energy drink to a person under 18 years of age. Provides that no express company, common carrier, or contract carrier nor any representative, agent, or employee on behalf of an express company, common carrier, or contract carrier that carries an energy drink for delivery within this State shall knowingly give or knowingly deliver to a residential address any shipping container clearly labeled as containing an energy drink and labeled as requiring the signature of a person who is at least 18 years of age to any person in this State under the age of 18 years. Sets forth provisions concerning adequate written evidence of age and identity. Sets forth criminal penalties and fines for certain violations of the Act.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Energy
5 Drink Act.

6 Section 5. Definitions. In this Act:

7 "Adequate written evidence of age and identity" means a
8 document issued by a federal, state, county, or municipal
9 government, or a subdivision or agency thereof, including, but
10 not limited to, a motor vehicle operator's license, a
11 registration certificate issued under the federal Selective
12 Service Act, or an identification card issued to a member of
13 the Armed Forces.

14 "Energy drink" means a carbonated beverage that exceeds a
15 caffeine content of 71 milligrams per 12 ounce serving and
16 contains any combination of taurine, guarana, and
17 glucuronolactone.

18 Section 10. Prohibited sales and possession.

19 (a) It is unlawful in this State for any person or retail
20 entity to sell or offer to sell an energy drink to a person
21 under 18 years of age.

22 (b) No express company, common carrier, or contract carrier

1 nor any representative, agent, or employee on behalf of an
2 express company, common carrier, or contract carrier that
3 carries an energy drink for delivery within this State shall
4 knowingly give or knowingly deliver to a residential address
5 any shipping container clearly labeled as containing an energy
6 drink and labeled as requiring the signature of a person who is
7 at least 18 years of age to any person in this State under the
8 age of 18 years.

9 An express company, common carrier, or contract carrier
10 that carries or transports an energy drink for delivery within
11 this State shall obtain a signature at the time of delivery
12 acknowledging receipt of the energy drink by a person who is at
13 least 18 years of age. At no time while delivering an energy
14 drink within this State may any representative, agent, or
15 employee of an express company, common carrier, or contract
16 carrier that carries or transports energy drinks for delivery
17 within this State deliver the energy drink to a residential
18 address without the acknowledgment of the consignee and without
19 first obtaining a signature at the time of the delivery by a
20 person who is at least 18 years of age. A signature of a person
21 on file with the express company, common carrier, or contract
22 carrier does not constitute acknowledgement of the consignee.

23 Section 15. Adequate written evidence of age and identity.
24 For the purpose of preventing a violation of this Act, any
25 retail entity, or its agent or employee, or a representative,

1 agent, or employee of an express company, common carrier, or
2 contract carrier that carries or transports an energy drink for
3 delivery within this State, shall refuse to sell, deliver, or
4 serve an energy drink to any person who is unable to produce
5 adequate written evidence of age and identity showing that he
6 or she is over the age of 18 years if requested by the retail
7 entity, agent, employee, or representative.

8 Proof that the retail entity, or its employee or agent, or
9 the representative, agent, or employee of the express company,
10 common carrier, or contract carrier that carries or transports
11 energy drinks for delivery within this State demanded, was
12 shown, and reasonably relied upon written evidence of age and
13 identity in any transaction forbidden by this Act is an
14 affirmative defense in any criminal prosecution therefor or to
15 any proceedings for the suspension or revocation of any license
16 based thereon. It shall not, however, be an affirmative defense
17 if the agent or employee accepted the written evidence knowing
18 it to be false or fraudulent. If a false or fraudulent Illinois
19 driver's license or Illinois identification card is presented
20 by a person less than 18 years of age to a retail entity or the
21 retail entity's agent or employee for the purpose of ordering,
22 purchasing, attempting to purchase, or otherwise obtaining or
23 attempting to obtain the serving of an energy drink, the law
24 enforcement officer or agency investigating the incident
25 shall, upon the conviction of the person who presented the
26 fraudulent license or identification, make a report of the

1 matter to the Secretary of State on a form provided by the
2 Secretary of State.

3 However, no agent or employee of the retail entity or
4 employee of an express company, common carrier, or contract
5 carrier that carries or transports energy drinks for delivery
6 within this State shall be disciplined or discharged for
7 selling or furnishing an energy drink to a person under 18
8 years of age if the agent or employee demanded and was shown,
9 before furnishing an energy drink to a person under 18 years of
10 age, adequate written evidence of age and identity of the
11 person. This paragraph, however, shall not apply if the agent
12 or employee accepted the written evidence knowing it to be
13 false or fraudulent.

14 Section 20. Penalties; fines.

15 (a) Any person who violates the provisions of subsection
16 (a) of Section 10 of this Act is guilty of a Class A
17 misdemeanor and the sentence shall include, but shall not be
18 limited to, a fine of not less than \$500 for a first offense
19 and not less than \$2,000 for a second or subsequent offense.
20 Any person who knowingly violates the provisions of subsection
21 (a) of Section 10 of this Act is guilty of a Class 4 felony if a
22 death occurs as the result of the violation.

23 (b) Except as otherwise provided in subsection (c) of this
24 Section, any express company, common carrier, or contract
25 carrier that transports an energy drink within this State that

1 violates the provisions of subsection (b) of Section 10 of this
2 Act by knowingly delivering an energy drink to a person under
3 18 years of age is guilty of a Class A misdemeanor and the
4 sentence shall include, but shall not be limited to, a fine of
5 not less than \$500.

6 (c) Any express company, common carrier, or contract
7 carrier that transports an energy drink for delivery within
8 this State that violates subsection (b) of Section 10 of this
9 Act by delivering an energy drink without the acknowledgement
10 of the consignee and without first obtaining a signature at the
11 time of the delivery by a person who is at least 18 years of age
12 is guilty of a business offense for which the express company,
13 common carrier, or contract carrier that transports an energy
14 drink within this State shall be fined not more than \$1,001 for
15 a first offense, not more than \$5,000 for a second offense, and
16 not more than \$10,000 for a third or subsequent offense. An
17 express company, common carrier, or contract carrier shall be
18 held vicariously liable for the actions of its representatives,
19 agents, or employees. For purposes of this Act, in addition to
20 other methods authorized by law, an express company, common
21 carrier, or contract carrier shall be considered served with
22 process when a representative, agent, or employee alleged to
23 have violated this Act is personally served. Each shipment of
24 an energy drink delivered in violation of subsection (b) of
25 Section 10 of this Act constitutes a separate offense.